

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MARWAN H. HANDSOME,

Petitioner,

v.

Civil Action No. 5:11CV154
(STAMP)

KUMA DEBOO,

Respondent.

MEMORANDUM OPINION AND ORDER
AFFIRMING AND ADOPTING REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE

I. Background

On October 31, 2011, the pro se¹ petitioner, Marwan H. Handsome, filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 alleging that the Federal Bureau of Prisons ("BOP") miscalculated his prison sentence by failing to provide him with 316 days of jail credit and that the BOP failed to consider his request for a nunc pro tunc designation. On November 30, 2011, the respondent filed a motion to dismiss or for summary judgment, informing the Court that the BOP submitted a nunc pro tunc request to the petitioner's sentencing judge, but that it would have to wait sixty days for a response from the sentencing court before making a determination on the petitioner's request for a nunc pro tunc designation. On January 18, 2012, the respondent filed a supplemental response to the order to show cause, in which she

¹"Pro se" describes a person who represents himself in a court proceeding without the assistance of a lawyer. Black's Law Dictionary 1341 (9th ed. 2009).

states that the BOP granted the petitioner a retroactive designation and that his sentence computation had been updated to reflect the award of credit.

United States Magistrate Judge James E. Seibert issued a report and recommendation on January 20, 2012, recommending that the petitioner's § 2241 petition be dismissed as moot. The magistrate judge advised the parties that, pursuant to 28 U.S.C. § 636(b)(1)(C), any party may file written objections to his proposed findings and recommendations on or before February 4, 2012. Neither the petitioner nor the respondent filed objections. For the reasons set forth below, this Court finds that the report and recommendation of the magistrate judge should be affirmed and adopted in its entirety.

II. Applicable Law

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of any portion of the magistrate judge's recommendation to which objection is timely made. However, failure to file objections to the magistrate judge's proposed findings and recommendations permits the district court to review the recommendation under the standards that the district court believes are appropriate and, under these circumstances, the parties' right to de novo review is waived. See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Because no objections were filed in this case, this Court reviews the report and recommendation of the magistrate judge for clear error.

III. Discussion

As the magistrate judge correctly stated, the jurisdiction of federal courts is limited to live cases or controversies. U.S. Const. art. III, § 1. When a claim no longer presents a viable issue to resolve, the claim becomes moot. Powell v. McCormack, 395 U.S. 486, 496 (1969). If developments occur during the course of a case which render the court unable to grant a party the relief requested, the case must be dismissed as moot. Blanciak v. Allegheny Ludlum Corp., 77 F.3d 690, 698-99 (3d Cir. 1996).

In this case, the petitioner has been granted retroactive designation for time served and his release date has been updated to January 23, 2016 to reflect this credit given. Accordingly, the petitioner has been granted the relief he requested and his § 2241 petition must be dismissed as moot.

IV. Conclusion

Because the parties have not objected to the report and recommendation of the magistrate judge, and because this Court finds that the magistrate judge's recommendation is not clearly erroneous, the ruling of the magistrate judge is hereby ADOPTED and AFFIRMED in its entirety. Accordingly, for the reasons set forth above, the petitioner's § 2241 petition is DISMISSED WITH PREJUDICE AS MOOT. It is ORDERED that this civil action be DISMISSED and STRICKEN from the active docket of this Court.

Under Wright v. Collins, 766 F.2d 841, 845 (4th Cir. 1985), the petitioner's failure to object to the magistrate judge's

proposed findings and recommendation bars the petitioner from appealing the judgment of this Court as to the matters addressed in the magistrate judge's report and recommendation.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to the pro se petitioner by certified mail and to counsel of record herein. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is directed to enter judgment on this matter.

DATED: February 13, 2012

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE